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Testimony Submitted by Edward Lang on March 10, 2022
to the Committee on Aging
on behalf of the Connecticut Chapter of the National Academy of Elder Law Attorneys

**In SUPPORT of
House Bill 5314**

**AN ACT DETERRING FRAUD AND ABUSE
PERPETRATED AGAINST SENIOR CITIZENS**

I am an elder law attorney practicing in Middlefield, Connecticut and the past president of the Connecticut Chapter of the National Academy of Elder law Attorneys (CTNAELA). The Connecticut Chapter of the National Academy of Elder Law Attorneys **supports** House Bill 5314: An Act Deterring Fraud and Abuse Perpetrated Against Senior Citizens.

Federal Law and the Connecticut Uniform Policy Manual specify that certain transfers do not incur a penalty that disqualify an individual from receiving Medicaid benefits. These include transfers between spouses, transfers to a disabled child, transfers to a child who has been residing with a parent and providing care that has enabled the parent to remain at home, and transfers to certain trusts for disabled individuals. These rules present legal opportunities to preserve resources for spouses, disabled individuals, and caregiver children. Unfortunately, these rules are not well known or understood by members of the public.

Based on personal experience, the experience of a number of Elder Law Attorneys practicing in Connecticut, and as indicated in testimony presented to the Elder Abuse Task Force, it is clear that the disclosure requirements contained in House Bill 5314 are necessary to protect Medicaid applicants. Many Connecticut convalescent homes are referring their residents to private firms that provide assistance in completing Medicaid applications. Connecticut senior citizens and their families have suffered financial loss because private firms that provide this assistance have not made the applicants aware of the applicant's legal rights under the Medicaid rules.

I recently represented an individual who had resided with and provided care to his elderly father. The father was blind and was suffering from dementia. The son had stopped working in order to care for his father. After a medical emergency, the father was placed in a long-term

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care facility. When the father became unable to pay for his long-term care, the staff in the business office at the facility referred the son to a private company that prepares Medicaid applications. The company then began requesting financial information about the father from the son. The son was told that the father would have to list his home for sale as part of the Medicaid application process. At that time, the son contacted my office to represent him in a mortgage transaction so that he could purchase the father's house.

Based upon the information that the son provided to me, I explained the rules about the transfer of a home to a caregiver child, assisted the son with a conservatorship proceeding, applied to the court for permission to transfer the home to the son, and transferred the home to the child. After the home was transferred to the son, the private company completed the Medicaid application, the application was granted, and the home was preserved for the son.

The private firm preparing the Medicaid application did nothing wrong. However, the practice of a long-term care facility referring a resident's family to a private firm to complete an application puts the inexperienced and overwhelmed families in a situation in which they are not made aware of their ability to legally protect their assets.

As summarized in the Statement of Purpose of this bill, HB 5314 will have an important, positive impact for elderly persons and their families. This bill will:

- A. Enforce disclosures of any potential conflicts of interest by the entities which elderly persons are often encouraged to seek assistance from to complete their Medicaid applications.
- B. Protect families who otherwise would suffer undue stress and financial losses because they were not aware of rights and protections afforded to them as citizens of the state of Connecticut.

On behalf of CT NAELA, I thank you for your consideration of this issue, and I urge you to act favorably with regard to House Bill 5314.